

REMARKS

In this reply, Applicant adds dependent claims 21-23. Claims 1, 3, 5-9, and 11-23 are thus currently pending, of which claim 11 is currently withdrawn. The changes to the claims find non-limiting support in the originally-filed application, for example in paragraph [28]. No new matter has been added.

In the outstanding Office Action, claims 1, 3, 5-9, and 12-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Baumann et al. (U.S. Patent Application Publication No. 2004/0243483, “Baumann”) in view of Moderegger et al. (U.S. Patent Application Publication No. 2002/0049642, “Moderegger”), and further in view of Joch (Competitive Procurement Online, DE Online, March 2000, “Joch”).

Applicant respectfully requests favorable reconsideration of the rejection of claims 1, 3, 5-9, and 12-20 for the reasons set forth next.

Independent claim 1 recites, *inter alia*, “modifying said at least one bid criterion for said component in response to said bid response being undesirable, the modifying including: breaking down the component into a plurality of subcomponents; and determining at least one modified bid criterion for at least one of the plurality of subcomponents” and “establishing a second, modified bid request using the at least one modified bid criterion for the at least one of the plurality of subcomponents.” Along the same lines, independent claim 7 recites, *inter alia*, “subsequent to receiving no satisfactory bid responses, substituting at least one alternative bid criterion for said at least one bid criterion for said component, the substituting including: breaking down the component into a plurality of subcomponents; and determining at least one modified bid criterion for at least one of the plurality of subcomponents” and “establishing an

alternative bid request using the at least one modified bid criterion for the at least one of the plurality of subcomponents.”

The Office Action concedes at page 5 that “Baumann and Moderegger do not specifically disclose breaking down the component into a plurality of subcomponents; and determining at least one modified bid criterion for at least one of the plurality of subcomponents; the modified bid request using the at least one modified bid criterion for the at least one of the plurality of subcomponents,” but alleges at pages 5-6 that Joch teaches “Suppliers may place bids for the entire assembly or simply one component . . . This line-bidding feature lets the buyer select suppliers on a per-component basis” and “During the bidding, buyers receive bids for all components and the entire assembly at one sitting.” The Office Action then concludes that “[i]t is obvious that if the buyer will choose the most desirable price . . . [the buyer] is modifying [the] bid criterion . . . by accepting bids on a per-component basis versus accepting bids on the entire assembly,” and thus that “it would have been obvious . . . to modify Baumann and Moderegger to specifically include breaking down the assembly into a plurality of components and the buyer accepting bids for the entire assembly . . . or for individual components.” Applicant respectfully disagrees.

First, Applicant respectfully submits that Joch fails to cure the deficiencies of Baumann and Moderegger because Joch does not teach or suggest that a buyer submits both “a first bid request” for a component *and* a “second, modified bid request” for at least one subcomponent, where the modified bid request uses at least one modified criterion modified “*in response to* said bid response [to the first bid request] being *undesirable*” by, *inter alia*, “breaking down the component into a plurality of

subcomponents,” as recited in claim 1. Rather, Joch teaches the use of a *single* RFQ (request for quote) where “suppliers view the RFQ” and can then “place bids for the entire assembly or simply one component,” which “lets the buyer select suppliers on a per-component basis.” Joch, p. 3, ¶ 3. Thus, while Joch mentions a single RFQ directed to both a component and its subcomponents, that RFQ corresponds neither to Applicant’s “first bid request,” which, unlike in Joch, is directed to the component but not its subcomponents, nor to Applicant’s “second, modified bid request,” which, unlike in Joch, is directed to subcomponents but not their corresponding component and which, also unlike in Joch, is in response to a determination that the bid response received for the component was “undesirable.” Moreover, the foregoing remarks also apply to claim 7, which recites, *inter alia*, establishing an alternative bid request “*subsequent* to receiving no satisfactory bid responses [to the bid request corresponding to said at least one bid criterion for a component], [and] substituting at least one alternative bid criterion for said at least one bid criterion for said component, the substituting including: breaking down the component into a plurality of subcomponents.” In short, Joch simply does not teach or suggest in any way to request bids for subcomponents after bids in a request for bids for the component have been determined to be undesirable, and thus fails to cure the deficiencies of Baumann and Moderegger, which also do not teach or suggest these features. As a result, Applicant respectfully submits that independent claims 1 and 7 are patentable over Baumann, Moderegger, and Joch.

Second, Applicant respectfully submits that the proposed combination of Baumann, which operates by allowing a customer to submit an online bid request to suppliers that can meet certain bid conditions (see ¶¶ 69, 75) and Moderegger, which

operates by allowing bidders to submit bids in response to an invitation to bid for an item with certain bid specifications specified by a buyer (see ¶¶ 44, 47, and 48) while allowing some selected bidders “to revise their respective bids, essentially restarting the bid process . . . with a subset of original prospective bidders” (see ¶ 55, and note that in Moderegger the buyer does not revise what is up for bids since the same bid process simply restarts with a subset of the bidders), at best teaches multiple rounds of bidding for what was initially up for bids. Thus, even if one were to separate Joch’s single RFQ into distinct RFQs, one directed to a component and the other to subcomponents, and to assign the RFQs to Moderegger’s additional bidding rounds,¹ the proposed combination of Baumann, Moderegger, and Joch would not render the claims unpatentable at least because it would change the principle of operation of Baumann and Moderegger. See MPEP § 2143.01(VI) (“If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”). That is, the proposed combination would change the principle of operation of Baumann and Moderegger from a method that operates by allowing bidding to continue in successive rounds until a bid for what was initially up for bids is satisfactory to a method that operates by bidding for different things in different rounds of bidding.

¹ Applicant respectfully submits that Joch does not suggest separating Joch’s single RFQ into distinct RFQs in any way because it expressly states, to the contrary, that “buyers receive bids for all components and the entire assembly at one sitting.” Joch, p. 3, ¶ 3. Applicant further respectfully submits that a suggestion to do so would be impermissible hindsight based on Applicant’s specification.

In short, the proposed combination of Baumann and Moderegger improves the likelihood that a higher bid will arise for what was initially up for bid by allowing additional rounds of bidding between the best bidders in a previous round of bidding; and Joch improves the likelihood of obtaining a good bid in one sitting by allowing bidders to bid for both components and the entire assembly in the same round of bidding. Applicant respectfully submits that these methods are completely different and may not be properly combined for the reasons set forth above. Applicant proposes a third method, also completely different, which is to submit a first bid request for a component and, in response to a determination that the corresponding bid responses are undesirable, to submit a second bid request for at least one subcomponent, along with various other related features. Applicant respectfully submits, however, that the cited art fails to teach or suggest this new method and its specifically claimed features.

For any one or both of the foregoing reasons, Applicant respectfully submits that Baumann, Moderegger, and Joch, whether taken alone or in combination, fail to teach or suggest all the features of independent claims 1 and 7. Accordingly, Applicant respectfully requests favorable reconsideration of the rejection of claims 1 and 7, along with their dependent claims 3, 5, 6, 8, 9, and 12-20 as being unpatentable over Baumann, Moderegger, and Joch.

Finally, Applicant adds new claims 21-23 to vary the scope of protection recited in the claims. Claims 21-23 find non-limiting support in the originally-filed application, for example in paragraph [28], and do not introduce new matter. In view of the foregoing remarks, claims 21-23 are believed to be allowable at least because they depend from one of independent claims 1 and 7.

Because the Office Action contains characterizations of the claims and prior art with which Applicant does not necessarily agree, Applicant declines to subscribe to any such characterizations unless expressly set forth in this paper.

In view of the foregoing remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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